HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Friday, May 22, 2015
84th Legislature, Number 76
The House convenes at 10 a.m.
Part One

Twenty-three bills are on the daily calendar for second-reading consideration today. The bills analyzed in Part One of today's *Daily Floor Report* are listed on the following page.

The House will consider a Local, Consent, and Resolutions Calendar.

Alma Allen
Chairman
84(R) - 76

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Friday, May 22, 2015
84th Legislature, Number 76
Part 1

SUBJECT: Establishing a Sunset review process for river authorities

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 8 ayes — Keffer, Ashby, Frank, Kacal, Larson, Lucio, Nevárez, Workman

2 nays — D. Bonnen, T. King

1 absent — Burns

SENATE VOTE: On final passage, April 9 — 31-0

WITNESSES: *(On House companion bill, HB 1290)*
For — Bill Peacock, Texas Public Policy Foundation; (*Registered, but did not testify:* Ward Wyatt, Central Texas Water Coalition; Brian Mast, San Antonio River Authority; Ken Kramer, Sierra Club-Lone Star Chapter; Billy Howe, Texas Farm Bureau; Chloe Lieberknecht, The Nature Conservancy)

Against — None

On — Gregory Ellis, Bandera County River Authority and Groundwater District; Phil Wilson, Lower Colorado River Authority; Ken Levine, Sunset Advisory Commission; Dean Robbins, Texas Water Conservation Association; (*Registered, but did not testify:* David Mauk and Sarah Rountree Schlessinger, Bandera County River Authority and Groundwater District)

BACKGROUND: River authorities are "special law" districts governed by a board of directors that are either elected or appointed by the governor. River authorities often encompass entire river basins that reach multiple counties. In general, river authorities have been created to protect and develop the surface water resources of the state, but their duties can vary significantly. They may have responsibility for flood control, soil conservation, and protecting water quality. Some river authorities operate major reservoirs and sell untreated water on a wholesale basis. Some river authorities also generate hydroelectric power, provide retail water and

wastewater services, and develop recreational facilities.

Most river authorities do not have the authority to levy a tax but can issue revenue bonds based on the projected revenues received from the sale of water or electric power.

River authorities sometimes are referred to as quasi-state agencies or agencies of the state. Because they are governmental entities, they are subject to numerous requirements such as open meetings, open records, and financial audits. The State Auditor's Office has the authority to audit the financial transactions of water districts and river authorities as necessary. In addition, water districts and river authorities are subject to supervision by the Texas Commission on Environmental Quality, including agency rules requiring an independent management audit every five years.

In 2013, the 83rd Legislature enacted HB 2362 by Keffer to allow the Legislative Budget Board (LBB) to periodically review the effectiveness and efficiency of the policies, management, fiscal affairs, and operations of a river authority. The LBB recently completed a management and performance review of the Brazos River Authority. A review of the Lower Colorado River Authority is due next but has not been scheduled.

DIGEST:

CSSB 523 would establish a limited Sunset review process for river authorities regarding governance, management, operating structure, and compliance with legislative requirements.

Limited Sunset review schedule. The river authorities would be subject to a review as if they were state agencies but could not be abolished. The following authorities would be scheduled for limited Sunset review according to the following schedule, based on the date each would be abolished if it were a state agency:

September 1, 2017, and every 12th year after:

- Brazos River Authority;
- Central Colorado River Authority; and
- Guadalupe-Blanco River Authority

September 1, 2019, and every 12th year after:

- Angelina and Neches River Authority;
- Lavaca-Navidad River Authority;
- Lower Colorado River Authority (not including the management of the generation or transmission of the authority's wholesale electricity operation and the authority's affiliated nonprofit corporations);
- Lower Neches Valley Authority; and
- Nueces River Authority

September 1, 2021, and every 12th year after:

- Palo Duro River Authority;
- Red River Authority of Texas;
- Sabine River Authority of Texas;
- Upper Colorado River Authority; and
- Upper Guadalupe River Authority

September 1, 2023, and every 12th year after:

- Bandera County River Authority and Groundwater District;
- San Antonio River Authority;
- San Jacinto River Authority;
- Sulphur River Basin Authority; and
- Trinity River Authority of Texas

The bill would repeal a provision in current law that makes the Sulphur River Basin Authority subject to Sunset review every 12 years as if it were a state agency, with an abolition date of September 1, 2017.

River authorities would be required to pay the cost incurred by the Sunset Advisory Commission in performing the review and could not be required to conduct a management audit as required by Texas Commission on Environmental Quality rule.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

CSSB 523 would provide direct oversight of river authority operations by establishing a consistent, uniform Sunset review process of an authority's governance, management, operating structure, and compliance with legislative requirements.

River authorities are entrusted with broad powers and the ability to manage the state's water, yet the Legislature has no direct oversight or review of their actions. Each river authority is created by special law and then turned over to a board of directors for management and operations. A Sunset review would ensure that river authorities were meeting their core functions. This is especially important given the prolonged drought the state is experiencing. Also, a Sunset review would provide an opportunity to examine more efficient ways to manage the authorities and issue bonds.

A river authority could not be abolished as a result of the limited review authorized by CSSB 523. These reviews would be for the purposes of open government, accountability, and transparent operations of river authorities. This bill would protect the bonding authority of river authorities by authorizing only limited Sunset review to guard against concerns that knowledge in the bond market that these entities could be abolished might increase their borrowing costs.

While an audit by the State Auditor's Office could be beneficial, it would be limited to the financial transactions of the authorities and should be used in addition to, rather than in place of, a Sunset review.

OPPONENTS SAY:

CSSB 523 would be unnecessary and costly because river authorities already have multiple layers of oversight. While river authorities would no longer be required to have an independent management audit performed every five years under CSSB 523, they are still currently subject to review by the Legislative Budget Board and the State Auditor's Office, as well as the continued supervision by the Texas Commission on Environmental Quality. Furthermore, the Legislature already has the ability to place a river authority under Sunset review as deemed necessary.

According to the Sunset Advisory Commission, the estimated cost per review could range from about $65,000 to $80,000, depending on the river

authority and travel time of Sunset Advisory Commission staff. The larger river authorities, such as the Lower Colorado River Authority and Brazos River Authority, would incur higher costs. River authorities also may experience additional internal costs. A Sunset review could be a significant financial burden because many of the authorities operate on modest budgets with five or fewer employees. The authorities with the earlier Sunset dates might be further burdened by not having adequate time to prepare.

While an effort was made to avoid any negative impact to an authority's bond rating by not allowing for an authority to be abolished, a Sunset review still could create uncertainty and negatively affect an authority's bond rating, thereby increasing its borrowing costs. Other options to increase transparency would be less damaging, such as an audit by the State Auditor's Office.

OTHER OPPONENTS SAY:

CSSB 523 would affect any river authority, whether or not it met criteria to warrant a Sunset review. Some river authorities do not own or manage any surface water rights. It would be more appropriate to put all governor-appointed boards that own, market, and manage the state's surface water under Sunset review, whether those entities were river authorities or water districts.

NOTES:

According to the fiscal note, CSSB 523 would result in costs to the Sunset Advisory Commission of about $414,000 during fiscal 2016-17 and about $1.4 million over the next five fiscal years. All of these costs would be reimbursed by the river authorities.

Costs to the river authorities scheduled for review in fiscal 2016-17 are estimated to be about $274,000 for the Brazos River Authority and about $70,000 each for the Central Colorado River Authority and the Guadalupe-Blanco River Authority.

The House companion bill, HB 1290 by Keffer, passed the House on April 23, by a vote of 138-2 (Dutton, T. King) and was referred to the Senate Committee on Administration on May 19.

CSSB 523 differs from the Senate-passed version in that under the House

substitute, river authorities subject to Sunset review could not be required to conduct a management audit as required by Texas Commission on Environmental Quality rule, rather than requiring that such an audit be delayed by five years after a Sunset review. CSSB 523 also would exclude the Lower Colorado River Authority's affiliated nonprofit corporations from review and would change several of the Sunset review dates.

SUBJECT: Higher education participation of persons with certain disabilities

COMMITTEE: Human Services — committee substitute recommended

VOTE: 6 ayes — Raymond, Rose, Keough, Naishtat, Peña, Price

1 nay — Spitzer

2 absent — S. King, Klick

SENATE VOTE: On final passage, April 30 — 31-0, on local and uncontested calendar

WITNESSES: (*On House companion bill, HB 1811*)
For — Gerard Jimenez, Access College Texas; Linda Litzinger; (*Registered, but did not testify:* Chase Bearden, Coalition of Texans with Disabilities; Erin Lawler, Texas Council of Community Centers; Ted Melina Raab, Texas American Federation of Teachers; Jolene Sanders, Easter Seals Central Texas; Amy Litzinger)

Against — None

On — (*Registered, but did not testify:* Steven Aleman, Disability Rights Texas; Susan Brown, Texas Higher Education Coordinating Board)

DIGEST: CSSB 37 would add language to Education Code, ch. 61 to require the Texas Higher Education Coordinating Board (THECB) to collect and study data on the participation of persons with intellectual and developmental disabilities at public higher education institutions.

Data to be collected would include applications for admission, admissions, retention, graduation, and professional licensing. THECB would be required to conduct an ongoing study to analyze factors affecting the participation of individuals with intellectual and development disabilities in higher education. THECB would be required to conduct an ongoing study on the recruitment of persons with intellectual and developmental disabilities, including previously made recruitment efforts, limitations on recruitment, and possible methods for

recruitment. The results of the recruitment study would be submitted to the governor and Legislature by November 1 of each even-numbered year.

The bill would require institutions of higher education to submit information requested by THECB in connection with the data collection and study. THECB would be required to adopt rules to ensure the confidentiality of student medical and educational information.

This bill would take effect September 1, 2015.

SUPPORTERS SAY:

CSSB 37 would help further the state's priority of promoting independence for persons with intellectual and developmental disabilities by gathering data on their participation in higher education. The data collection and ongoing study could allow THECB to coordinate future recruitment and retention efforts more effectively.

Only one private and six public higher education institutions in Texas offer postsecondary programs for individuals with these types of disabilities. The state must encourage opportunities for this population to obtain meaningful employment by promoting access to postsecondary programs.

With more jobs requiring postsecondary education, it is imperative that persons with disabilities be prepared for the 21st century workforce. Individuals with disabilities are less likely to be employed and are more likely to live in poverty. The lack of employment can lead to dependence on government-funded programs.

The data required to be gathered would be similar to data that the state has collected since 1997 on participation in higher education by members of racial and ethnic minority groups. Such information has helped THECB develop policies to increase access to college for those groups.

According to the fiscal note, the data collection and ongoing studies could be accomplished within THECB's resources.

OPPONENTS SAY:

By requiring the coordinating board to collect data, conduct ongoing studies, and publish a biennial report, CSSB 37 could present an

administrative burden.

NOTES:

The House companion, HB 1811 by Naishtat, was considered in a public hearing of the House Human Services Committee on May 4 and left pending.

CSSB 37 differs from the Senate engrossed version in that the House substitute would require that:

- THECB analyze factors affecting the participation of persons with intellectual and developmental disabilities at higher education institutions;
- THECB conduct an ongoing study to identify issues related to recruitment of persons with intellectual and developmental disabilities and issue a biennial report on the recruitment study to the governor and Legislature; and
- higher education institutions submit data to THECB, which would adopt rules to ensure confidentiality of student medical and educational information.

Unlike the House substitute, the Senate engrossed version of the bill would have required that THECB work with the comptroller in conducting the study to avoid duplication with other studies.

SUBJECT: Establishing a reading excellence team pilot program

COMMITTEE: Public Education — favorable, without amendment

VOTE: 7 ayes — Aycock, Bohac, Deshotel, Farney, Huberty, K. King, VanDeaver

0 nays

4 absent — Allen, Dutton, Galindo, González

SENATE VOTE: On final passage, April 23 — 30-0

WITNESSES: For — Barbara Frandsen, League of Women Voters of Texas; Mark Terry, Texas Elementary Principals and Supervisors Association; (*Registered by did not testify*: Ellen Arnold, Texas Parent Teacher Association; Courtney Boswell, Texas Institute for Education Reform; Jeffrey Brooks, Texas Conservative Coalition; Grover Campbell, Texas Association of School Boards; Monty Exter, Association of Texas Professional Educators; Ashlea Graves, Houston ISD; Bill Hammond, Texas Association of Business; Janna Lilly, Texas Council of Administrators of Special Education; Julie Linn, Texans for Education Reform; Casey McCreary, Texas Association of School Administrators; Ted Melina Raab, Texas American Federation of Teachers; Colby Nichols, Texas Association of Community Schools, Texas Rural Education Association; Cameron Petty, Texas Institute for Education Reform; Casey Smith, United Ways of Texas; Rona Statman, the Arc of Texas; Maria Whitsett, Texas School Alliance; Paige Williams, Texas Classroom Teachers Association; Justin Yancy, Texas Business Leadership Council)

Against — Zenobia Joseph; (*Registered, but did not testify*: Matt Long; Sandy Ward)

On — Monica Martinez, Texas Education Agency

DIGEST: SB 935 would require the commissioner of education to establish a pilot

program for reading excellence teams to provide teacher training and assistance at eligible school districts with low student performance on certain reading assessments.

The commissioner would determine eligibility in the pilot program based on the district's low student performance on:

- a reading diagnosis assessment given in kindergarten, first grade, and second grade; or
- the State of Texas Assessments of Academic Readiness (STAAR) grade 3 reading exam.

The pilot program would allow an eligible school district to request a reading excellence team. This team, composed of reading instruction specialists, would:

- review with the district the results of reading assessments and, based on these assessments, determine school campuses and classrooms with the greatest need of assistance for students in kindergarten through third grade; and
- work with teachers on campuses and in classrooms identified above to provide training designed to improve student reading outcomes.

The commissioner would be required to establish this pilot program and adopt necessary rules by September 1, 2016.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and expire on September 1, 2021.

SUPPORTERS SAY:

SB 935 would create a pilot program to place reading specialists in campuses with teachers who most need additional training in literacy best practices. Children who excel early in reading tend to do better academically than those with basic literacy skills. This gap increases as students grow older, which makes early intervention crucial to ensuring proper student literacy development. Reading specialists apply research-based methods and consistent assessments to effect change in student performance. With reading specialists, literacy instruction is consolidated

and standardized, allowing consistent instruction throughout a district.

By placing reading specialists in schools, the bill would give teachers the opportunity to ask questions about irregularities in student achievement in literacy. Also, reading specialists could share literacy techniques that teachers could apply immediately and receive feedback about in the classroom.

OPPONENTS SAY:

SB 935 would not be a good use of government funding because certified teachers should have already mastered the information and training this program would provide. Teachers who receive their certification from universities should be well versed in literacy pedagogy, and any additional training should be provided through continuing education courses. If teachers are not receiving the adequate training for literacy improvement, then certification course requirements in universities should be adjusted.

This bill would attempt to create standardized instruction, but not every student would fit within this box. Students are a diverse group, and what works for one student might not work for another. Trying to fit students within a standardized instructional framework could leave behind students who learn best in a different environment.

NOTES:

According to the Legislative Budget Board's fiscal note, SB 935 would have a negative net impact to general revenue of about $3.1 million through fiscal 2016-17.

The House companion bill, HB 3134 by Deshotel, was referred to the Public Education committee on March 23.

SUBJECT: Establishing confidentiality of toll and transit users' personal information

COMMITTEE: Transportation — committee substitute recommended

VOTE: 8 ayes — Pickett, Martinez, Burkett, Fletcher, Israel, Minjarez, Murr, Simmons

0 nays

5 absent — Y. Davis, Harless, McClendon, Paddie, Phillips

SENATE VOTE: On final passage, April, 9 — 31-0, on local and uncontested calendar

WITNESSES: For — Pete Havel, North Texas Tollway Authority; (*Registered, but did not testify*: Charles Reed, Dallas County Commissioners Court)

Against — (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas)

On — (*Registered, but did not testify*: James Bass, Texas Department of Transportation)

BACKGROUND: Transportation Code, sec. 366.179 establishes the confidentiality of personal information related to transponders used in toll payments. Customer contact information, trip data, and payment information received by transponders are confidential and exempt from disclosure under an open records request.

DIGEST: CSSB 57 would establish the confidentiality of the personal identifying information, including payment information, of public transit riders and toll-road users who pay by mail or are exempt from tolls.

This provision extending confidentiality to pay-by-mail users of toll roads would not apply to Transportation Code, sec. 372.102(a), which permits toll entities to publish a list of the registered owners or lessees or vehicles that are liable for unpaid tolls.

CSSB 57 would take effect September 1, 2015, and would apply only to a request for information that was received by a regional tollway or transportation authority on or after that date.

SUPPORTERS SAY:

CSSB 57 would protect the sensitive information of motorists who use toll roads and individuals who use public transportation.

Currently, the law protects only the paying customers of toll roads from having their personal and financial information revealed through the Public Information Act. A September 2013 opinion by the Office of the Attorney General indicated that only the information related to the transponders used to pay tolls is confidential.

Although open government and transparency are worthy goals, the state also has a responsibility to protect the private information of Texans who use toll roads and public transit. CSSB 57 would strike the right balance between the public's right to know and individuals' right to privacy. Law enforcement still could access this information in order to conduct an investigation.

Information about law enforcement and other public officials can and should be obtained through open-records requests through the specific organizations, rather than tolling authorities.

OPPONENTS SAY:

CSSB 57 would close off access to information in which there is a public interest. The information that it would make confidential could be used by journalists or interested members of the public to, for instance, expose tolling companies that overcharge the public with late fees. Public scrutiny of this information could improve the toll road system for Texans.

OTHER OPPONENTS SAY:

It is understandable that private citizens want to keep their personal information private when they use toll roads and public transportation, but CSSB 57 would go too far. The bill would conceal the movements of law enforcement and other emergency vehicles on toll roads. The public has an interest in knowing where public officials and law enforcement travel and how frequently toll roads are used by these groups.

NOTES:

CSSB 57 differs from the Senate-engrossed version in that the House substitute includes a provision that would protect the confidentiality of personal identifying information collected by a metropolitan transit authority.

SUBJECT: Revoking licenses of nursing homes for serious, repeated violations

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Raymond, Rose, Keough, S. King, Klick, Naishtat, Peña, Price

0 nays

1 absent — Spitzer

SENATE VOTE: On final passage, March 30 — 30-0

WITNESSES: For — (*Registered, but did not testify*: Amanda Fredriksen, AARP; Alyse Meyer, LeadingAge Texas)

Against — (*Registered, but did not testify*: Stephen Raines, Preferred Care Partners Management Group; Eric Wright, Senior Care Centers)

On — Gavin Gadberry, Texas Health Care Association; (*Registered, but did not testify*: Chris Adams, Texas Department of Aging and Disability Services)

DIGEST: CSSB 304 would require the executive commissioner of the Health and Human Services Commission (HHSC) to revoke the license of a convalescent or nursing home or related institution if the license holder committed three high-level health and safety violations that met specific criteria.

License revocation for serious, repeated violations. The executive commissioner would be required to revoke the license of a facility if:

- the license holder had committed three violations related to neglect or abuse of a resident that posed an immediate threat to the resident's health and safety;
- the violations occurred in a 24-month period; and
- each violation was reported in connection with a separate survey, inspection, or investigation visit that occurred on separate entrance

and exit dates.

An “immediate threat to health and safety” would be defined as a situation in which immediate corrective action was necessary because a facility’s noncompliance with one or more requirements had caused or was likely to cause serious injury, harm, impairment, or death to a resident.

The executive commissioner could not revoke a facility’s license if the violation and determination of immediate threat to health and safety were not included on the written list of violations left with the facility at the initial exit conference for a survey, inspection, or investigation or the violation was not included on the final statement of violations. A facility’s license also could not be revoked if the violation had been reviewed under an informal dispute resolution process and a determination was made that the violation should be removed from the license holder’s record or that the violation was reduced in severity such that it no longer was considered an immediate threat to health and safety.

If a license was revoked, the Department of Aging and Disability Services (DADS) could:

- request the appointment of a trustee to operate the institution;
- assist with obtaining a new operator for the institution; or
- assist with the relocation of residents to another institution.

The executive commissioner could stay a license revocation if it was determined that the stay would not jeopardize the health and safety of residents or place them at risk of abuse or neglect. The executive commissioner would establish by rule criteria under which a license revocation could be stayed, following negotiated rulemaking procedures prescribed by current law. The criteria would have to allow the executive commissioner to stay the license revocation of a nursing facility for which the DADS had deployed a rapid response team under Health and Safety Code, sec. 255.004, if the facility had cooperated with the team and demonstrated improvement in quality of care.

The executive commissioner could stay the license revocation for a veterans home if the Veteran’s Land Board contracted with a different

entity than the one that operated the home when the violations leading to the revocation occurred.

Monitoring visits. CSSB 304 would require that monitoring visits be made to long-term care facilities that had been identified as medium risk through the department's early warning system. A long-term care facility also could request a monitoring visit. A quality-of-care monitor would have to assess conditions identified through the long-term care facility's quality measure reports based on Minimum Data Set Resident Assessments. DADS would be required to schedule a follow-up visit not later than 45 days after the initial monitoring visited. Conditions observed by a quality-of-care monitor that created an immediate threat to health or safety would have to be reported to the long-term care facility administrator, in addition to other parties specified under current law.

Rapid response team visits. The bill would expand circumstances under which rapid response teams could visit long-term care facilities. The rapid response teams could visit a long-term care facility that was identified as high risk by DADS through its early warning system or that had committed three violations within a 24-month period that constituted an immediate threat to health and safety related to the abuse or neglect of residents. Long-term care facilities would be required to cooperate with a rapid response team that was deployed to improve the quality of care they provided.

Informal dispute resolution. CSSB 304 would add requirements to an existing informal dispute resolution process for certain long-term care facilities. HHSC would contract with an appropriate disinterested nonprofit organization to adjudicate certain disputes between an institution or facility licensed under Health and Safety Code, ch. 242 and DADS. This resolution process would concern disputes regarding a statement of violations as prepared by the department in connection with a survey of the institution or facility.

Implementation. As soon as practicable after the bill's effective date, DADS or HHSC, as appropriate, would apply for any waiver or other authorization from a federal agency necessary to implement this bill. The department and commission could delay implementing the bill until the

waiver or authorization was granted.

The executive commissioner of HHSC would adopt the rules necessary to implement the informal dispute resolution provision of the bill as soon as practicable after the bill's effective date. DADS and HHSC also would, as appropriate, revise or enter into any memorandum of understanding required by a federal agency that was necessary to implement this provision.

Effective date. Except as otherwise provided, the bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015. The sections of the bill governing license revocation for repeated health and safety violations would take effect September 1, 2016, and would apply only to a violation committed on or after that date.

SUPPORTERS SAY:

CSSB 304 would implement a "three-strikes" policy to address concerns that relatively few sanctions are issued for serious and repeated nursing home violations.

The Department of Aging and Disability Services (DADS) underwent Sunset review as part of the 2014-15 review cycle. The Sunset Advisory Commission found that few long-term care providers face enforcement action for violations. This bill would create a strong state response to facilities with serious, repeated health and safety violations that would include revoking their licenses to operate, if warranted. It would protect vulnerable Texans from potential abuse or neglect or being placed at significant risk of abuse and neglect.

At the same time, the bill would be fair to institutions by allowing them to pursue corrective action after first and second violations before facing license revocation. In addition, the bill would preserve the discretion of the executive commissioner of HHSC to stay a license revocation under certain circumstances, including those in which the stay would not jeopardize the health or safety of residents. The informal dispute resolution provision, which would include a component to ensure the independence of the adjudicator, would provide a way for facilities to dispute unfair claims of violations. All of these provisions of the bill

would help to ensure that only bad actors were affected. The bill also would place reasonable parameters on what would constitute "three strikes" for the purpose of taking away a facility's license.

CSSB 304 would help facilities that wanted to improve. The bill contains provisions to strengthen the department's quality monitoring program, which could improve quality of care through means other than enforcement action.

OPPONENTS SAY:

While intending to help nursing home residents, CSSB 304 could lead to the closure of nursing homes or other long-term care facilities, which can be difficult for residents and their families. The goal should be to improve quality and maintain access to care, rather than shut down facilities. This course of action could be particularly problematic in rural parts of the state where there are not many nursing homes or other long-term care facilities. In some areas, these facilities are important employers. Shutting down a facility can punish residents, family members, and staff, when most of them have done no wrong.

Evaluation teams that conduct surveys of nursing homes and other long-term care facilities are not always consistent in applying standards and in what they consider serious or severe. In particular, violations of "immediate jeopardy to health and safety" can be subjective. Survey team members may not always have appropriate clinical knowledge and experience to properly evaluate a nursing home. The bill would not necessarily ensure that standards were applied fairly and consistently, even though a facility's license could be at stake.

The state already has the ability to revoke a license if warranted, and this bill could push more facilities in that direction, rather than helping them improve. Instead of implementing additional punitive measures, the state should provide more funding to help struggling facilities restricted by low Medicaid reimbursement rates to attract and retain high-quality staff.

NOTES:

CSSB 304 differs from the Senate's engrossed version of the bill in that the House substitute would:

- require the revocation of a facility's license and certain other

actions be performed by the executive commissioner of HHSC rather than DADS;

- allow the executive commissioner to *stay* rather than *waive* license revocation in certain situations; and
- include requirements related to rulemaking regarding a license revocation that was stayed by the executive commissioner.

SUBJECT: Establishing reading-to-learn academies for teachers of grades 4 or 5

COMMITTEE: Public Education — favorable, without amendment

VOTE: 7 ayes — Aycock, Bohac, Deshotel, Farney, Huberty, K. King, VanDeaver

0 nays

4 absent — Allen, Dutton, Galindo, González

SENATE VOTE: On final passage, April 23 — 30-0

WITNESSES: For — Barbara Frandsen, League of Women Voters of Texas; Mark Terry, Texas Elementary Principals and Supervisors Association; (*Registered by did not testify*: David Anderson, Arlington ISD Board of Trustees; Ellen Arnold, Texas Parent Teacher Association; Courtney Boswell, Texas Institute for Education Reform; Jeffrey Brooks, Texas Conservative Coalition; Grover Campbell, Texas Association of School Boards; Monty Exter, Association of Texas Professional Educators; Ashlea Graves, Houston ISD; Bill Hammond, Texas Association of Business; Janna Lilly, Texas Council of Administrators of Special Education; Julie Linn, Texans for Education Reform; Casey McCreary, Texas Association of School Administrators; Ted Melina Raab, Texas American Federation of Teachers; Colby Nichols, Texas Association of Community Schools, Texas Rural Education Association; Cameron Petty, Texas Institute for Education Reform; Casey Smith, United Ways of Texas; Rona Statman, The Arc of Texas; Maria Whitsett, Texas School Alliance; Paige Williams, Texas Classroom Teachers Association; Justin Yancy, Texas Business Leadership Council)

Against — (*Registered, but did not testify*: Matt Long; Sandy Ward)

On — Zenobia Joseph (*Registered, but did not testify*: Monica Martinez, Texas Education Agency)

BACKGROUND: Education Code, sec. 21.4551 requires the commissioner of education to

develop and make available reading academies for teachers of students in grades 6 through 8.

DIGEST:

SB 972 would require the commissioner of education to develop and make available reading-to-learn academies for teachers of grades 4 or 5. These academies would be required to provide effective instructional methods to promote student literacy development, including reading comprehension and inferential and critical thinking. They could include material on writing instruction. A participating teacher would have access to an academy's training materials online.

The commissioner would adopt criteria to select teachers who could attend a reading-to-learn academy. In adopting criteria, the commissioner would be required to give priority to teachers employed by school districts in which 50 percent of the students enrolled were educationally disadvantaged. The commissioner also would have to provide a process for teachers who did not teach at campuses mentioned above to participate in the reading-to-learn academies if the academy had available space and the school district employing the teacher paid for the attendance.

From funds appropriated for the purpose, a teacher attending a reading-to-learn academy would be entitled to receive a stipend in an amount determined by the commissioner. This stipend would not be considered when determining whether a district was paying the teacher according to the minimum salary schedule in statute.

The commissioner could request regional education service centers to assist with training and activities related to the reading-to-learn academies.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would expire September 1, 2027.

SUPPORTERS SAY:

SB 972 would provide teachers with additional professional development to effect change in students with reading skills below basic levels. Many Texas fourth-graders are not proficient readers. Reading academies are an early intervention tool for students, providing effective instructional

techniques to increase student reading development.

Reading academies are necessary to incorporate research-based methods of reading instruction into educator preparation and professional development. Teachers who have completed traditional or alternative programs could benefit from the research-based methods that would be provided by these academies.

OPPONENTS SAY:

SB 972 would not be a good use of government funding because teachers certified through traditional programs should have been provided this type of training through their certification program. Elementary educators take an array of classes covering instructional techniques for core subjects and should be knowledgeable in appropriate pedagogy. If additional training is needed, it should be supplied through continuing education courses. If teachers are not receiving adequate training, then certification course requirements in universities should be adjusted.

OTHER OPPONENTS SAY:

Reading-to-learn academies should require a writing instruction component, rather than making it optional. Literacy involves reading and writing. A teacher should know how to teach a student to read and write to support the student's academic development.

NOTES:

The Legislative Budget Board estimates that SB 972 would have a negative net impact to general revenue of about $11.1 million in fiscal 2016-17.

The House companion bill, HB 2223 by Deshotel, was referred to the House Public Education Committee on March 13.

SUBJECT: Waiving occupational license, exam fees for certain military and spouses

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 7 ayes — S. King, Frank, Aycock, Blanco, Farias, Schaefer, Shaheen

0 nays

SENATE VOTE: On final passage, April 14 — 31-0

WITNESSES: (*On House companion bill, HB 2012*)
For — (*Registered, but did not testify:* Traci Berry, Goodwill Central Texas; Lori Henning, Texas Association of Goodwills; Jim Brennan, Morgan Little, and John A. Miterko, Texas Coalition of Veterans Organizations; Jeffrey Brooks, Texas Conservative Coalition)

Against — None

On — Randy Nesbitt, Texas Department of Licensing and Regulation; (*Registered, but did not testify:* Stan Kurtz, Texas Veterans Commission; Carol E. Miller, Department of State Health Services-Professional Licensing and Certification Unit)

BACKGROUND: Occupations Code, sec. 55.007 requires state agencies that issue licenses to give credit to military service members and veterans for military service, training, or education toward meeting licensing requirements.

Currently, the Texas Department of Licensing and Regulation accepts applications for occupational licenses for six occupations from members of the military or veterans who wish to receive credit for their military experience, service, training, or education to meet licensing requirements. This includes licenses for:

- air conditioning and refrigeration contractors and technicians;
- barbers;
- electricians, including master electricians and journeyman electricians;

- polygraph examiners;
- registered accessibility specialists; and
- water well drillers and pump installers.

DIGEST:

SB 807 would require any state agency that issued licenses to waive the license application and examination fees paid to the state for certain military members, veterans, and their spouses.

The fee waivers would apply to military service members or veterans whose service, training, or education substantially met all the requirements for the license or to service members, veterans, or military spouses who hold a current license issued by another jurisdiction for which the licensing requirements are substantially equivalent to those in Texas.

The bill would take effect September 1, 2015, and would apply only to an application for an occupational license filed on or after that date.

SUPPORTERS SAY:

SB 807 would help veterans transitioning from active duty to more quickly obtain occupational licenses and secure employment by removing the barrier of having to pay fees to the state for the license. The bill also would help veterans and their spouses obtain occupational licenses if they already had a license from another jurisdiction that met Texas' occupational licensing requirements.

The bill would be sufficiently narrow because only fees paid to the state would be waived. SB 807 would not affect the ability of third-party administrators of exams to collect their fees.

State agencies already are required to give military members and veterans credit for their service, training, or education toward meeting licensing and apprenticeship requirements but are not required to waive state fees or examinations. Waiving state fees under this bill would further the intent of what agencies are already required to do under current law to assist veterans seeking occupational licenses in obtaining employment. In practice, the Texas Department of Licensing and Regulation already waives some fees for military spouses who apply for a Texas occupational license when they hold similar licenses in other jurisdictions with similar

licensing requirements.

Although fees paid for occupational licenses are used to cover all programs provided for that occupation, the decrease in fees would be so small that any revenue loss would be negligible. The bill would apply only to a small number of people and would not cost the state enough revenue that fees for others would have to be raised.

OPPONENTS SAY:

There is a chance SB 807 could increase costs for individuals receiving occupational licenses who still had to pay the required fees. Because the fees collected from each license must cover all programming provided for that occupation, waiving fees for certain individuals under this bill could lead to raising the fee for those who still had to pay in order to cover the cost of licensing programs, such as continuing education courses.

NOTES:

The Legislative Budget Board's fiscal note states that according to the comptroller, the bill would reduce state revenue from occupational licensing and exam fees, but sufficient data does not exist to determine how much revenue would be forgone.

The House companion bill, HB 2012 by Sheets, was placed on the May 12 General State Calendar but was not considered.

SUBJECT: Prohibiting local source-of-income housing ordinances

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 4 ayes — R. Anderson, Elkins, Schaefer, M. White

2 nays — Alvarado, Bernal

1 absent — Hunter

SENATE VOTE: On final passage, April 7 — 20-11 (Ellis, Garcia, Hinojosa, Lucio, Menendez, Rodriguez, Uresti, Watson, West, Whitmire, Zaffirini)

WITNESSES: (*On House companion bill, HB 2909*)
For — Stacy Hunt, Greystar Real Estate Partners; Howard Bookstaff and David Mintz, Texas Apartment Association; Michael Garcia; Gregory Johnson; Marc Ross; Bob Thompson; (*Registered, but did not testify*: Giovanna Frazza, Justin Cislo, and Shandy Kellams, Alliance Residential Company; Monica Kamka, and Eric Torres, Atlantic Pacific Management; LaShawn Bailey, Ruben Barraza, Michelle Forbes, Maria Apodaca, Kristan Arrona, Keri Mohler, Sharon Mooney, Rhonda Navarro, David Osmeyer, Stephani Park, William Roland, and Christy Sanchez, Austin Apartment Association; Raymundo Raybel, Demetria Acevedo, Eloy Guerrera, and DeAnne Garza, Capstone Real Estate Services; Katie Lytle, Stonegate Apartments, Alliance Residential Company; Daniel Gonzalez, Texas Association of Realtors; Ned Munoz, Texas Association of Builders; Wade Long, Texas Manufactured Housing; Adriana Diaz; Stephanie Saez)

Against — Isabelle Headrick, Accessible Housing Austin; Kimberly Hale and Heiwa Salovitz, ADAPT of Texas; Elizabeth Spencer and Kathy Tovo, City of Austin; Tanya Lavelle, Easter Seals Central Texas; Ann Howard, Ending Community Homelessness Coalition; Charlie Duncan and Karen Paup, Texans for Housing Choice; Madison Sloan, Texas Appleseed; Ken Martin, Texas Homeless Network; John Henneberger, Texas Low Income Housing Information Service; Linda Litziner; (*Registered, but did not testify*: Freddie Gonzalez, Jennifer McPhail, and

Renee Lopez, ADAPT of Texas; Jo Kathryn Quinn, Caritas of Austin, Texas Homeless Network; Katharine Ligon, Center for Public Policy Priorities; Anna Holmes, City of Dallas; Sherry Johnston, Grade; Carl Richie, Housing Authority of the City of Austin; Gyl Switzer, Mental Health America of Texas; Greg Hansch, National Alliance on Mental Illness-Texas; Kelly Rodgers, SafePlace; Eileen Garcia, Texans Care for Children; Jeff Patterson, Texas Catholic Conference of Bishops; Jess Heck, Texas Family Council; Laura Mueller, Texas Municipal League; Jennifer Allmon, The Texas Catholic Conference of Bishops; and 10 individuals)

On — (*Registered, but did not testify*: Betsy Spencer, City of Austin)

BACKGROUND: The federal Housing and Community Development Act of 1974 established Section 8 rental housing assistance programs to help low-income families, the disabled, and the elderly find decent housing. Section 8 housing vouchers also are known as the Housing Choice Voucher Program.

To be eligible, participants may not have incomes that exceed 50 percent of the area median income. Voucher participants may choose any housing if the owner agrees to rent under the voucher program and the rent does not exceed established payment standards based on U.S. Department of Housing and Urban Development fair market rents. Funding for the voucher program is administered by a local public housing authority (PHA). By law, a PHA must provide 75 percent of its available vouchers to applicants whose incomes do not exceed 30 percent of the area median income. The PHA is required to reexamine the voucher user's income annually and inspect the rental unit annually.

DIGEST: SB 267 would prohibit any municipality or county from adopting or enforcing an ordinance or regulation that would prevent an owner or other person with the right to lease, sublease or rent a housing accommodation from refusing to lease or rent a housing accommodation to a person because of the person's lawful source of income to pay rent, including a federal housing choice voucher.

The bill would not apply to an ordinance or regulation adopted before

January 1, 2015.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

SB 267 would permit landlords and property owners to continue to freely rent their property. A source-of-income ordinance essentially requires landlords to participate in the federal Section 8 housing program. Participation in this voucher program is meant to be strictly voluntary for both renters and property owners. An ordinance by a city or county could force property owners into a federal contract by requiring a landlord to rent to a voucher user if the individual passed the background check. Landlords should retain the right to choose their tenants.

Entering into the federal housing voucher program can lead to delays of payment and involve complicated legal guidelines, which can create financial risk and uncertainty for landlords. Property owners and landlords who rent to Section 8 tenants are required to sign a U.S. Department of Housing and Urban Development (HUD) lease addendum inconsistent with the leases utilized by the vast majority of property owners and are placed under numerous other restrictions and conditions that can add substantial costs to their normal course of business. Landlords and property owners should not be required by a local ordinance to enter into such an arrangement if they did not wish.

If a landlord fails to conform to the HUD-approved rent level, tenancy can be jeopardized. Additionally, because public housing authorities must inspect a rental unit annually, the inspection process can increase the amount of time required for a landlord to rent out a property. Voucher users also cannot be evicted if their federal sponsor fails to pay the rent, can leave their leases for various reasons, and can only be evicted for cause, which puts an unfair burden on landlords.

OPPONENTS SAY:

SB 267 is unnecessary because local source-of-income ordinances do not force private rental owners to participate in the housing choice voucher program. Landlords may continue to screen and apply rental criteria for potential renters, and if the potential renter does not satisfy the landlord’s

expectations, the landlord may refuse the rental. The landlord retains the right to eviction, can seek legal remedy for missed payments for which the renter is responsible, and may initiate a new yearly lease. Source-of-income ordinances merely prohibit the landlord from making the renter's lawful source of income the reason to reject the potential renter.

Currently, no city or county in Texas is mandated to adopt a source-of-income ordinance or regulation. It should be the local choice of residents in a city or county whether to allow or prohibit such an ordinance. The Legislature should be wary of enacting legislation that takes such control away from people at the local level.

Many families who use housing vouchers have difficulty finding suitable housing. Prior to Austin's adoption of a source-of-income ordinance, a very small number of rental properties accepted housing vouchers. The lack of choice for voucher users meant low-income families and individuals often were pushed to certain parts of the city considered low-opportunity areas. Source-of-income ordinances are used to protect individuals, including people with disabilities and veterans, who use housing vouchers and may have few choices for affordable housing in safe locations.

Housing vouchers cover a large portion of a voucher user's rent, and this portion is automatically received by the landlord every month once payments start. Landlords who participate in the housing voucher program enjoy rent security for the portion that is paid by the public housing authority.

NOTES: A House companion bill, HB 2909 by Springer, was placed for second-reading consideration on the General State Calendar for May 12 but was not considered.

SUBJECT: Repealing the Lone Star GCD's conflicts of interest rule exemption

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 10 ayes — Keffer, Ashby, D. Bonnen, Frank, Kacal, T. King, Larson, Lucio, Nevárez, Workman

0 nays

1 absent — Burns

SENATE VOTE: On final passage, April 28 — 31-0

WITNESSES: No public hearing

BACKGROUND: Water Code, sec. 36.058 provides that a groundwater conservation district director is subject to the provisions of Local Government Code, ch. 171 relating to the regulation of conflicts of officers of local governments.

The Lone Star Groundwater Conservation District (GCD) was created by the 77th Legislature in 2001 to regulate groundwater use within Montgomery County. When the district was created, its enabling legislation — HB 2362 by Hope — included a provision exempting the district's board of directors from rules regarding conflicts of interest.

DIGEST: SB 2049 would repeal the provision in the Lone Star Groundwater Conservation District's enabling legislation exempting the district from conflict of interest rules.

The bill would take effect September 1, 2015.

SUPPORTERS SAY: SB 2049 would ensure that the board of the Lone Star Groundwater Conservation District (GCD) was able to act with transparency by removing the conflicts of interest exemption from the GCD's enabling legislation. The bill would align the GCD's rules with common law doctrine, including the prohibition against a person holding more than one office.

OPPONENTS SAY:

SB 2049 could prevent knowledgeable people from serving on the Lone Star GCD's board. A person should be able to serve as a board member as long as any potential conflict was handled transparently. Any questionable act in an official capacity would result in removal through the appointment process.

SUBJECT: Administration of the state's prescription drug monitoring program

COMMITTEE: Public Health — committee substitute recommended

VOTE: 7 ayes — Crownover, Naishtat, Blanco, R. Miller, Sheffield, Zedler, Zerwas

0 nays

4 absent — Coleman, Collier, S. Davis, Guerra

SENATE VOTE: On final passage, April 9 — 31-0

WITNESSES: For — Cathy Dewitt, Texas Association of Business; Graves Owen MD, Texas Medical Association; Cheryl White, Texas Pain Society; (*Registered, but did not testify*: Audra Conwell, Alliance of Independent Pharmacists of Texas; Adam Burklund, American Insurance Association; Kathy Hutto, Coalition for Nurses in Advanced Practice; Fred Shannon, National Safety Council; Dan Hinkle, Texas Academy of Family Physicians; Lisa Jackson, Texas Academy of Physician Assistants; Juliana Kerker, Texas College of Emergency Physicians; Bradford Shields, Texas Federation of Drug Stores; Dan Finch, Texas Medical Association; Kevin Cooper, Texas Nurse Practitioners; Rachael Reed, Texas Ophthalmological Association; Bobby Hillert, Texas Orthopaedic Association; David Reynolds, Texas Osteopathic Medical Association; Clayton Travis, Texas Pediatric Society; Justin Hudman, Texas Pharmacy Association; Michael Wright, Texas Pharmacy Business Council; Karen Reagan, Walgreens)

Against — None

On — (*Registered, but did not testify*: Sherry Wright and Jay Alexander, Texas Department of Public Safety; Gay Dodson, Texas State Board of Pharmacy)

BACKGROUND: Health and Safety Code, ch. 481 contains the Texas Controlled Substances Act and provisions for the state's prescription drug monitoring program.

The Texas Department of Public Safety monitors Schedule II through Schedule V controlled substance prescriptions through this program.

According to the Department of Public Safety, the Texas Prescription Program can be used by practitioners and pharmacists to verify their own records and inquire about patients. Practitioners and pharmacists have statutorily restricted access to search their own prescribing and dispensing history and the prescription history of one of their patients through this program.

DIGEST:

CSSB 195 would transfer rulemaking authority over the state's prescription drug monitoring program and related duties from the Department of Public Safety (DPS) to the Texas State Board of Pharmacy. The bill also would require a person to register or be exempt from registration with the U.S. Drug Enforcement Administration under the federal Controlled Substances Act to manufacture, distribute, analyze, or dispense a controlled substance or conduct research with a controlled substance under the Texas Controlled Substances Act.

Prescription information system. The Texas State Board of Pharmacy, rather than the director of DPS, would design and implement a system for submission of information to the board by electronic or other means and for retrieval of that information. The bill would specify that the Texas State Board of Pharmacy would submit to DPS the system's design and that the design would be sent to the Texas Medical Board for review and comment within a reasonable time before the system would be implemented. The board would have to comply with the comments of those agencies unless it were unreasonable to do so.

The bill would specify the entities that would have access to information regarding prescriptions of certain controlled substances. The board would be required to ensure that DPS had unrestricted access at all times to information submitted to the board regarding prescriptions for certain controlled substances. DPS would have access to this information through a secure electronic portal under its exclusive control. DPS would be required to pay all expenses associated with the electronic portal, including its initial implementation and ongoing operation.

The bill would authorize the board to adopt rules allowing certain pharmacists, health care providers, and employees or agents of an eligible practitioner to be enrolled in electronic access to information relating to prescriptions of certain controlled substances at the time the person obtained or renewed their professional or occupational license or registration.

A law enforcement or prosecutorial official engaged in specified activities regarding illicit drugs could obtain information submitted to the board only if the official submitted a request to DPS and showed proper need for the information. Records relating to the access of information by DPS or on behalf of a law enforcement agency would be confidential, including any information concerning the identities of investigating agents or agencies. The board would be prohibited from tracking or monitoring DPS' access to information.

The bill would require DPS to transfer to the board all appropriate records received by DPS under certain provisions of the Texas Controlled Substances Act regulating prescriptions for controlled substances and the official prescription program by September 1, 2016. A reference in law or an administrative rule to the public safety director of DPS relating to rulemaking authority given and duties transferred to the board by the bill would be considered a reference to the board.

Interoperability agreement. The bill would allow the Texas Board of Pharmacy to enter into an interoperability agreement with one or more states or an association of states that would authorize the board to access prescription monitoring information maintained or collected by the other state or states or the association, including information maintained on a central database such as the National Association of Boards of Pharmacy Prescription Monitoring Program InterConnect.

If the board entered into an interoperability agreement, the board also could authorize the prescription monitoring program of one or more states or an association of states to access prescription information submitted to the board. A person who was authorized to electronically access information submitted to the board would be entitled to directly access information available from other states pursuant to an interoperability

agreement.

The Texas State Board of Pharmacy could enter into an interoperability agreement before September 1, 2016, but the agreement could not go into effect until that date.

Fees. The board by rule would establish reasonable and necessary fees to produce sufficient revenue to cover the cost of establishing and maintaining the state's prescription drug monitoring program. The board could assess the fee on individuals or entities authorized to prescribe or dispense controlled substances under the Texas Controlled Substances Act and to access the state's prescription drug monitoring program.

Each agency that licensed individuals or entities authorized to access the state's prescription drug monitoring program and to prescribe or dispense controlled substances under the Texas Controlled Substances Act would increase its occupational license, permit, or registration fee for license holders or would use available excess revenue in an amount sufficient to operate that program as specified by the board. These fees would be transferred to the board to establish and maintain the state's prescription drug monitoring program. The board could use grants to offset or reduce the amount of fees paid by each agency.

Administrative penalties. The bill would remove the ability for DPS to impose an administrative penalty for certain actions under the Texas Controlled Substances Act.

Interagency Prescription Monitoring Work Group. The bill would specify that the executive director of the board or the executive director's designee would serve as the chair of the Interagency Prescription Monitoring Work Group and would specify the composition of the work group.

The Texas State Board of Pharmacy would adopt required rules by March 1, 2016. Certain provisions related to rulemaking would take immediate effect if passed by a two-thirds record vote of the membership of each house. Otherwise, the bill would take effect September 1, 2015.

SUPPORTERS SAY:

CSSB 195 would improve the state's prescription drug monitoring program by transferring it from the Department of Public Safety (DPS) to the Texas State Board of Pharmacy. This transfer would allow DPS to focus on its core law enforcement mission rather than the burden of administering a registration program.

By authorizing the board to enter into an interoperability agreement with other states to share information through a central database, the bill would allow pharmacists, pharmacies, and health practitioners to share information across state lines to prevent interstate doctor shopping for controlled substances.

The bill also would dramatically improve the prescription drug monitoring program by enhancing its functionality and making it easier to use for all who had access to it. This change would help improve enforcement of the Texas Controlled Substances Act and federal law and would further prevent the diversion of prescription drugs. The bill also would eliminate a substantial paperwork burden for practitioners.

CSSB 195 would transfer the state's prescription drug monitoring program from DPS, a state-funded government agency, to the Texas State Board of Pharmacy, a self-funded state health regulatory agency that receives no tax dollars from the general revenue fund. This transfer could save the state money while allowing DPS to be more efficient in carrying out its core mission. The program needs funding to continue to operate, and the fees are a necessary part of that funding. The bill would allow the board to use grants to offset or reduce the amount of fees paid by each occupational licensing agency. The increased costs to the agencies could be offset by an increase in fee-generated revenue.

The changes in the House committee substitute were made in consultation with both DPS and the board and were fully agreed upon.

OPPONENTS SAY:

CSSB 195 would mandate an increase in occupational licensing fees for certain health professionals to fund the transfer of the state's prescription drug monitoring program from DPS to the Texas State Board of Pharmacy and the continued operation of the program. The increased licensing fees could pose a burden to health professionals licensed under these agencies.

NOTES:

Unlike the engrossed Senate version of SB 195, the House committee substitute would:

- change effective dates for implementation of the bill's provisions;
- specify that DPS would have its own portal to the state's prescription drug monitoring program database;
- change the membership of the Interagency Prescription Monitoring Work Group;
- allow the board to use grants to offset or reduce the amount of fees paid by licensing agencies;
- specify the persons who could possess a controlled substance; and
- exempt from certain provisions a person registered by the U.S. Drug Enforcement Administration or a person who was exempt from such registration, among other provisions.

SUBJECT: Requiring dental support organizations to register, creating civil penalty

COMMITTEE: Public Health — favorable, without amendment

VOTE: 8 ayes — Crownover, Naishtat, Blanco, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

3 absent — Coleman, Collier, S. Davis

SENATE VOTE: On final passage, April 1 — 26-4 (Burton, Fraser, Hall, and Huffines)

WITNESSES: For — Steve Bresnen, Association of Dental Support Organizations; Bill Bingham, Texas Dental Association; (*Registered, but did not testify*: David Mintz, Texas Academy of General Dentistry; Tyler Rudd, Texas Academy of Pediatric Dentistry; Jim Rudd, Texas Society of Oral Maxillofacial Surgeons)

Against — None

On — (*Registered, but did not testify*: Nycia Deal, Texas State Board of Dental Examiners)

DIGEST: SB 519 would require certain businesses to register with and provide information to the secretary of state, create a penalty for non-compliant businesses, and require the secretary to share information with the State Board of Dental Examiners.

Under the bill, "dental support organization" (DSO) would mean an entity that agreed to provide two or more business support services to a licensed dentist, including marketing, regulatory compliance, or financial services.

The bill would require DSOs to register with the secretary of state and pay a fee by January 31 every year. DSOs would not be required to register before February 1, 2016. The registration would have to include:

- the name and business address of the DSO and each dentist for whom it agreed to provide two or more business support services;
- the name of each person, including dentists, who owned 10 percent or more of the DSO; and
- a list of business support services provided to each dentist.

An organization that began providing two or more business support services to a dentist after January 31 of any year would be required to register as a DSO with the secretary of state within 90 days of the execution date of an agreement. The DSO would be required to file a corrected registration each quarter as necessary.

The bill would not apply to:

- an accountant providing only accounting services;
- an attorney providing only legal counsel;
- an insurance company or agent providing only insurance policies to a business; and
- entities providing only investment and financial advisory services.

Any person who failed to file a required original or corrected registration would be liable for a civil penalty to the state. The attorney general would be required to file a lawsuit to collect the penalty, which could not exceed $1,000. Each day a violation continued or occurred would be considered a separate violation.

The secretary of state would be required to share the information collected from the filed registrations with the State Board of Dental Examiners according to an interagency memorandum between the two entities.

The bill would change certain definitions in Occupations Code, ch. 254, related to DSOs to conform to the definitions contained in this bill.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

SB 519 would provide necessary transparency to protect dental patients. While dental support organizations (DSOs) do not participate in the

practice of dentistry, some have raised concerns regarding undue influence certain organizations may have exercised over dentists and their practices. The State Board of Dental Examiners does not have authority to regulate DSOs, and this bill would not create that authority. The bill would provide the board with important information on the identity of DSOs and who owns them, which would help the board in investigating any potential claims of unlawful behavior. It would provide a simple solution to a legitimate problem.

OPPONENTS SAY:

SB 519 would create a new regulatory class by requiring DSOs to register with and pay a fee to the secretary of state. It would expand regulations to include DSOs and force them to pay a fee even though they do not engage in the practice of dentistry. This could stifle the innovation and efficiency DSOs bring to the practice of dentistry through their business support services.